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7 Defendant Pinkette Clothing, Inc.

8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 PINKETTE CLOTHING, INC.,
12

13 Plaintiff,

14 v.
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16 COSMETIC WARRIORS LIMITED,
et. al.,
17

18 Defendants.

19
20 AND RELATED COUNTERCLAIMS
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CASE NO. 15-CV-4950 SJO (AJWx)

FINAL JUDGMENT Trial Date:

January 24, 2017 Place:

Courtroom 10C

1 The above-entitled action between Pinkette Clothing, Inc. (“Pinkette”) and
2 Cosmetic Warriors Limited (“CWL”) was tried to a jury from January 24, 2017 to
3 January 30, 2017 and the jury rendered its verdict on January 31, 2017. After
4 dismissal of the jury, on January 31, 2017, the Court heard additional evidence and
5 argument on the question of laches. On February 3, 2017, after an independent
6 review of all evidence, the Court rendered an oral statement of decision regarding
7 laches.

8 Whereupon this Court hereby **ORDERS, ADJUDICATES, AND**
9 **DECREES** that final judgment shall be and hereby is entered in the above-entitled
10 matter as follows:

11 **Trademark Infringement**

- 12 1. LUSH is a valid, protectable trademark;
- 13 2. CWL owns LUSH as a trademark in cosmetics and various other
14 goods and services other than clothing;
- 15 3. Pinkette’s use of the LUSH mark on clothing was without CWL’s
16 consent and likely to cause confusion among ordinary consumers as to the source,
17 sponsorship, affiliation, or approval of the goods;
- 18 4. Pinkette had either statutory or actual notice that CWL’s LUSH mark
19 was registered;
- 20 5. CWL is entitled to neither actual damages nor to profits, if any, earned
21 by Pinkette attributable to infringement;

22 **Laches**

- 23 6. After independent examination of all evidence, the Court in its
24 equitable powers finds that CWL knew or should have known that Pinkette was
25 using the LUSH mark in a manner that created a likelihood of confusion with
26 CWL’s mark;

1 7. After independent examination of all evidence, the Court in its
2 equitable powers finds that CWL unreasonably delayed in bringing its claims for
3 trademark infringement against Pinkette;

4 8. After independent examination of all evidence, the Court in its
5 equitable powers finds that Pinkette was prejudiced as a result of CWL's delay;

6 9. After independent examination of all evidence, the Court in its
7 equitable powers finds that CWL's claims are barred by laches.

8 **Judgment**

9 10. Judgment shall be entered in favor of Pinkette on all parties' claims
10 and counterclaims;

11 11. CWL shall take nothing by any of its claims in this action;

12 12. Pinkette is awarded its costs;

13 **Injunctive Relief**

14 13. CWL's request for injunctive relief is denied;

15 **CWL's Petition to Cancel Pinkette's Registration**

16 14. The Director of the United States Patent and Trademark Office is
17 hereby directed, pursuant to 15 U.S.C. § 1119 and without further order of this
18 Court, to dismiss with prejudice the pending cancellation proceeding No.
19 92061660.

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21 **IT IS SO ORDERED. DATED:**

22 February _17_, 2017



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24 HONORABLE S. JAMES OTERO
25 UNITED STATES DISTRICT COURT JUDGE
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